

ESTTA Tracking number: **ESTTA1023093**

Filing date: **12/17/2019**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Patxi's Limited		
Entity	Corporation	Citizenship	Wyoming
Address	466 E. Foothill Blvd. #356 La Canada, CA 91011 UNITED STATES		

Attorney information	Edmund J. Ferdinand, III Ferdinand IP, LLC 1221 Post Road East Suite 302 Westport, CT 06880 UNITED STATES jferdinand@24iplg.com, lauras@24iplg.com 203-557-4224
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Applicant Information

Application No	88533955	Publication date	11/19/2019
Opposition Filing Date	12/17/2019	Opposition Period Ends	12/19/2019
Applicant	Johnny K. Wang 2790 19th Ave #13 San Francisco, CA 94132 UNITED STATES		

Goods/Services Affected by Opposition


Class 043. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Restaurant services
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	88573008	Application Date	08/09/2019
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	PATXI'S		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 043. First use: First Use: 2004/05/00 First Use In Commerce: 2004/05/00 Restaurant services

Attachments	88573008#TMSN.png(bytes) Notice of Opposition to Patxis.pdf(83173 bytes)
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Signature	/ejf/
Name	Edmund J. Ferdinand, III
Date	12/17/2019

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 88/533,955
For the Mark PATXI'S
Published in the *Official Gazette* on November 19, 2019

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Patxi's Limited,	:
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Opposer,	:
	:
v.	:
	:
Johnny K. Wang,	:
	:
Applicant.	:
-----X	

Opposition No.:

NOTICE OF OPPOSITION

Patxi's Limited ("Opposer") believes that it will be damaged by registration of the trademark covered by Application Serial No. 88/533,955 (the "Application") filed on July 24, 2019 by Johnny K. Wang ("Applicant") for the mark PATXI'S, and hereby opposes the same.

Opposer is a corporation organized and existing under the laws of the State of Wyoming, having an address at 466 E. Foothill Blvd., #356, La Canada, CA 91011.

Applicant is, upon information and belief, an individual having an address at 2790 19th Avenue #13, San Francisco, CA 94132.

As grounds for opposition, Opposer alleges as follows:

1. Applicant seeks to register the trademark PATXI'S on the Principal Register in International Class 043 in connection with "restaurant services."
2. Opposer is the successor in interest to all right, title and interest in and to the trademark PATXI'S that has been used widely and continuously since 2004 in connection with

popular restaurants known for deep-dish pizza and other items in California, Colorado and Washington. As a result of the widespread use in interstate commerce by Opposer and its franchisees of the aforesaid PATXI'S trademark in connection with popular restaurants and the advertisement and promotion of the brand, the PATXI'S trademark has acquired extensive goodwill, has developed a high degree of distinctiveness, and is well-known and recognized as identifying high quality restaurant services which have their origin with or have been authorized by Opposer.

3. Opposer is the owner of U.S. Trademark Application Serial No. 88/573,008 for the mark PATXI'S in International Class 043 for use in connection with "restaurant services". The PTO Examining Attorney issued an Office Action on November 8, 2019 which included a refusal to register the mark, in part, because of the prior-filed Application of Applicant.

4. Opposer has prior and superior trademark rights as against Applicant for the PATXI'S trademark.

5. Applicant's PATXI'S mark falsely suggests a connection with the identity of Opposer's PATXI'S trademark.

6. Applicant's PATXI'S mark is identical to Opposer's PATXI'S trademark in appearance, sound and commercial impression. Moreover, the adoption of Applicant's mark was obviously selected to draw an association with Opposer's renowned PATXI'S trademark and to trade on the goodwill and strong commercial recognition Opposer has gained over the years with its PATXI'S trademark used in connection with restaurant services.

7. Applicant intends to use its PATXI'S trademark in connection with the exact same type of restaurant services used in connection with Opposer's PATXI'S trademarks. As such, consumers are likely to believe mistakenly that Applicant's PATXI'S restaurants are the

same as, from the same source as, or otherwise affiliated with Opposer's PATXI'S restaurants and/or that Applicant's restaurants are provided by, sponsored by, approved by, licensed by, affiliated with or in some other way legitimately connected to Opposer's authorized PATXI'S restaurants.

8. By reason of the foregoing, Opposer believes that it would be damaged by the registration of Applicant's PATXI'S trademark.

9. Finally, any doubt about the likelihood of confusion must be resolved in favor of Opposer because Applicant had a legal duty to select a mark that was totally dissimilar to a trademark already in use, and it knowingly and willfully failed to do so.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained and that Applicant's application to register PATXI'S as a mark for services in International Class 043 be refused in all respects.

Dated: December 17, 2019

Respectfully submitted,

_____/ejf/_____
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